

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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NICHOLAS M. ACUNA,

Plaintiff,

20 **CIVIL** 4635

-v-

JUDGMENT

ANDREW SAUL,
COMMISSIONER OF SOCIAL SECURITY,
Defendant.

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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Stipulation and Order dated April 2, 2021, that the final decision of the Commissioner of Social Security ("Commissioner") be reversed and the above-captioned action be remanded under sentence four of 42 U.S.C. §405(g). Section 405(g) provides that the Court has the power "to enter, upon the pleadings and transcript of record, a judgment affirming, modifying or reversing the decision of the [Commissioner], with or without remanding the cause for a rehearing." *Melkonyan v. Sullivan*, 501 U.S. 89 (1991). Remand for further development of the record is appropriate when gaps exist in the administrative record or where the Administrative Law Judge ("ALJ") has committed legal error. See *Parker v. Harris*, 626 F.2d 225, 235 (2d Cir. 1980). Upon review of the record, the Commissioner finds that further development of the record and additional administrative action is warranted. Should the Appeals Council remand to an ALJ, upon remand the ALJ will conduct further proceedings and develop the administrative record as necessary to determine whether Plaintiff is disabled within the meaning of the Social Security Act, including offering Plaintiff a new hearing, and issuing a new decision. The ALJ will also be instructed to further evaluate and explain his review of whether the claimant's impairments met the criteria of listing 1.04(A).

Dated: New York, New York
April 2, 2021

RUBY J. KRAJICK

Clerk of Court

BY:

K. Mango

Deputy Clerk